



DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree under the Clean Water Act

On May 24, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Hawaii in the lawsuit entitled *United States of America v. Capt. Millions III, LLC et al.*, Civil Action No. 1:18-cv-196.

The Complaint in this Clean Water Act case was filed against the defendants concurrently with the lodging of the Consent Decree. The Complaint alleges that the defendants, Capt. Millions III, LLC, Brian Nguyen, and Kha Van, are civilly liable for violations of Section 311 of the Clean Water Act (“CWA”), 33 U.S.C. § 1321. Mr. Nguyen is the managing member of the company and Mr. Van is the longtime operator of the vessel. The Complaint alleges that the company and individuals are liable for violations related to the commercial longline fishing vessel *Capt. Millions III*’s operations based out of Honolulu, Hawaii. The Complaint addresses discharges of oily bilge waste from the vessel while fishing for tuna off Hawaii. The Complaint also includes a Clean Water Act claim for violations of the Coast Guard’s pollution control regulations, including failure to provide sufficient capacity to retain all oily bilge water onboard the vessel. The United States seeks civil penalties and injunctive relief to deter future violations by the defendants and others in the industry.

Under the proposed Consent Decree, the defendants will perform corrective measures to remedy the violations and prevent future violations, including: (1) repairing the vessel to reduce the quantity of oily waste generated during a fishing voyage; (2) providing crewmembers with training on the proper handling of oily wastes; (3) documenting proper oily waste management

and disposal after returning to port; and (4) submitting compliance reports to the Coast Guard and the Department of Justice.

The consent decree also requires the company, company manager, and vessel operator to each pay a civil penalty. The penalty amounts were set considering each defendant's limited ability to pay a higher penalty, as demonstrated through documentation submitted to the United States and analyzed by a financial expert. Capt. Millions III, LLC must pay a civil penalty of \$10,000; the company manager, Brian Nguyen, must pay a civil penalty of \$5,000; and the vessel operator, Kha Van, must pay a civil penalty of \$7,000. Under the terms of the Clean Water Act, the penalties paid for these discharges will be deposited in the federal Oil Spill Liability Trust Fund managed by the National Pollution Funds Center.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America v. Capt. Millions III, LLC et al.*, D.J. Ref. No. 90-5-1-1-11816. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted by either email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov.
By mail	Acting Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611.

Please enclose a check or money order for \$13.75 (25 cents per page reproduction cost) payable to the United States Treasury.

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